

LONDON LOCAL AUTHORITIES BILL

PETITION

Praying to be heard by Counsel &c - Against

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Northern Ireland in Parliament Assembled

THE HUMBLE PETITION OF  
THE NATIONAL MARKET  
TRADERS' FEDERATION

SHEWETH as follows:-

1. A Bill (hereinafter referred to as "the Bill") has been introduced into and is now pending in your Right Honourable House intituled "A Bill to confer further power upon local authorities in London; and to related purposes".
2. The Bill is promoted by Westminster City Council and would confer powers on that Council and on other London borough councils and on the Common Council of the City of London.

***Relevant clauses of the Bill***

3. *Clause 25* is concerned with the management of street markets in Greater London and will permit a London borough council to enter into contractual arrangements with a person (to be known as the "market manager") enabling the market manager to carry out certain activities.
4. *Clause 26* makes provision in relation to the sale of vehicles over the internet and, if enacted, would ensure that such sales are regarded as street trading for the purposes of the London Local Authorities Act 1990 ("the 1990 Act").
5. *Clause 27* would make a number of amendments to the City of Westminster Act 1999 ("the 1999 Act"). These include an amendment which replicates in Westminster the effects of

amendments which are made to the 1990 Act by *clause 26* (internet vehicle trading) in respect of other parts of London.

6. *Clause 27* further contains, at subsections (4) to (16), a series of amendments to the 1999 Act which will enable authorised officers of the City Council to seize certain types of street trading equipment in cases where this is not authorised by the present legislation, and to dispose of the equipment summarily in certain cases. The explanatory memorandum appended to the Bill recites that these powers in the opinion of the City Council are required to deal with stands used for the sale of hot dogs and other kinds of hot food.
7. *Clause 28* introduces *Schedule 4* which makes amendments to the 1999 Act consequential upon the amendments made in *clause 25*.
8. *Clause 29* introduces *Schedule 5* to the Bill which is a Keeling Schedule setting out the whole of the 1999 Act as amended by previous enactments and by the Bill. *Clauses 30, 31, 32 and 33* make similar provisions in the London Borough of Camden as *clause 27* does in Westminster in relation to the seizure and disposal of receptacles used for the purposes of unlawful street trading of refreshments and other matters.

#### ***Your Petitioners***

9. Your Petitioners are the National Market Traders Federation, an unincorporated mutual trading association founded in 1899. According to your Petitioners' rules (which are the constitution of the Federation) their principal object is to make representations on behalf of members and their business interests in respect of legislation and other public matters which affect the businesses or professional interest of members to government departments, local authorities and others. The rules in addition state that the Federation shall have power, for the purposes of furthering the principal object, to promote and support provisions in Parliamentary Bills benefiting market traders, and to oppose provisions in Parliamentary Bills detrimental to market traders. Your Petitioners have approximately 35,800 members throughout Great Britain and while no precise figures are available, it is believed that some 2,000 of them are street traders licensed by the local authorities in Greater London.
10. Your Petitioners allege that the trade and interest which they represent, and the property, rights and interests of their members, would be injuriously affected by the provisions of the Bill, and they object thereto for the reasons amongst others hereinafter appearing.

### *Your Petitioners' concerns*

11. Your Petitioners recognise that street trading has to be carried out in an orderly manner, and must be properly regulated. In your Petitioners respectful submission the proposals of the Bill however are defective in several regards and, if enacted, will be seriously prejudicial to your Petitioners and their members.

#### *Clause 25*

12. Your Petitioners have grave concerns about the provisions of clause 25 for the appointment of market managers. As drafted clause 25 makes no provision for prior consultation of traders or their representatives, and could lead to imposition of a market manager against the wishes of traders.
13. Your Petitioners are disappointed to note that the Bill does not provide for a body representing licensed street traders to be the market manager. Such arrangements in your Petitioners' submission would be conducive to ensuring that street markets are run effectively and economically, and in a manner which is acceptable to those whose livelihood is the market. Your Petitioners therefore submit that, if clause 25 is allowed, it should require the Council to appoint such a body unless there are good and sufficient reasons not to do so.
14. Your Petitioners are also concerned by the definition of "relevant market" in clause 25 (6), which would cover as few as two traders who it appears would not necessarily be trading in close proximity to each other, and ask that a more appropriate definition should be substituted.
15. Your Petitioners also apprehend that under clause 25 the costs of tendering for and appointing a market manager could be passed on to the traders in the form of increased fees. Your Petitioners would therefore ask that, if clause 25, is allowed to remain in the Bill, it should be amended so as to preclude these costs from being passed on to traders.

#### *Clause 26*

16. Your Petitioners have no objection to the principles of clause 26 whereby the sale of motor vehicles on the internet is made subject to regulation under the street trading legislation. Your Petitioners however are concerned that the cost of enforcing these controls – which in their submission relate to activities which are entirely distinct from street trading in the conventional sense – should not be passed on to licensed street traders, and would ask that if clause 26 is allowed it should be amended to ensure that this does not occur.

### ***Matters not addressed by the Bill***

17. Your Petitioners are concerned to note that, in seeking changes to the existing street trading provisions, the Promoters have made no attempt to remedy the defects in the Acts now in force in Greater London. Your Petitioners have had discussions with officers of Westminster City Council with a view to the Council promoting a Bill which could be supported by the traders. Your Petitioners are therefore disappointed that this Bill has been brought forward without consultation or even notification and that the Bill fails to address these difficulties many of which have already been drawn to the attention of the relevant officers. Your Petitioners apprehend that by making limited amendments only the present Bill risks making the legislation even more unsatisfactory, and would respectfully submit that the street trading provisions should not be allowed to proceed unless accompanied by the wider reforms which in your Petitioners' respectful submission are urgently required. Your Petitioners note with regret that, had proper consultation taken place, it might have been possible for the present Bill to have been introduced in a form which was entirely acceptable to the street traders.
18. The matters which are of concern are summarised below, most of the defects being present both in the 1990 Act and in the 1999 Act.

### ***Designating resolutions***

19. Under the existing legislation a pitch can be de-designated or reduced in size by resolution of the Council with immediate effect with the result that street trading at the location becomes unlawful. The Council resolution remains in force until any appeal to the Secretary of State is disposed of. Your Petitioners would respectfully submit that the resolution should have no effect unless and until the proposal has been upheld on appeal.

### ***Specifying resolutions***

20. The present legislation allows the Council to pass a resolution prohibiting licence holders from selling goods or services of a type specified in the resolution. Again the Council resolution has immediate effect and remains in force unless and until any appeal to the Secretary of State is disposed of. Your Petitioners ask that the legislation should be amended so as to preclude the passing of any such resolution from taking effect unless and until it has been upheld on appeal.

### ***Conditions of street trading licences***

21. The existing Acts give Councils extremely wide powers to attach conditions to street trading licences. This power accordingly should be restricted so that conditions must relate to

matters such as are referred to in section 9(2) of the 1999 Act and the corresponding provisions of the 1990 Act.

### ***Standard conditions***

22. The powers of the existing Acts to vary standard conditions in your Petitioners' submission should be amended so that any change does not take effect pending any appeal. At the same time provision should be made for the periodic review and (if necessary) rescission, variation or replacement of any standard conditions which are found to be oppressive or unreasonable, with a right of appeal to the Secretary of State. The legislation in particular should confer on representative bodies (such as your Petitioners) the right to apply for rescission or variation with a right of appeal to the Secretary of State, if the body or bodies is or are not satisfied with the decision of the Council.

### ***Grants of licences to partnerships and companies***

23. Under the existing Acts a street trading licence cannot be granted to a partnership or company other than one engaged in ice cream trading. This restriction in your Petitioners' experience is unnecessary and fails to take account of modern conditions. Your Petitioners would therefore ask that the legislation should be amended so as to enable licences for street trading of all kinds to be held by partnerships and companies.

### ***Discretionary grounds for refusal of licences***

24. There have been difficulties in the interpretation of these provisions of the legislation which give rise to anomalies between applications for new licences, on the one hand, and variations of licences on the other. Your Petitioners ask that the legislation be amended to address these issues.

### ***Revocation of licences***

25. The existing legislation was designed to preclude the sub-letting or selling of pitches. Your Petitioners do not oppose this principle. However, in the experience of your Petitioners' members the manner in which the legislation is applied by some Councils (such as Westminster) can give rise to hardship, especially when licensees are prevented by ill-health or other sufficient cause from trading in person. Accordingly, your Petitioners ask that a licensee should be allowed to employ other persons to trade on his or her behalf.

### ***Variation of licences***

26. It appears that there was an omission in the previous legislation, in that the right to make representations against refusal only applies to new applications, and not applications for variation. Your petitioners would ask that this omission be rectified.

### ***Appeals to the magistrates***

27. Your Petitioners understand that officers of Westminster Council have suggested that the right of appeal in cases of refusal to grant a licence does not extend to cases where the Council refuse to vary a licence and would ask that the legislation should be amended to remove any uncertainties, and ensure that appeals may be brought in such cases.

### ***Appeals to the Secretary of State***

28. Whilst there is a right of appeal to the Secretary of State on a number of matters his powers are not set out in the legislation and there is uncertainty as to the extent of his powers, for example, to substitute a different fee to that set by the Council. The legislation moreover should require the Council to give effect to any decision of the Secretary of State. The petitioners ask that the Bill be amended to remove that uncertainty.

### ***Fees and charges***

29. A number of anomalies have arisen under the law in relation to fees and charges. Accordingly, your Petitioners ask that the existing legislation should be amended so as to ensure the licensed street traders may be required to pay reasonable costs only, should not be liable to pay for services which they do not require and that moreover when representations have been made to the Council reasons should be given for decisions reached by the determining body. At the same time increased charges when introduced from time to time should not have effect until any appeal has been disposed of.

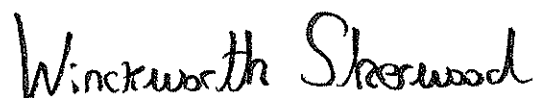
### ***Conclusion***

30. There are other clauses and provisions in the Bill to which your Petitioners object as prejudicial to the businesses represented by them and to the property rights and interests of their members and clauses and provisions necessary for their protection and benefit are omitted therefrom.

31. The Preamble to the Bill so far as it relates to the matters aforesaid is untrue and incapable of proof.

YOUR PETITIONERS therefore humbly pray your Right Honourable House that the Bill may not pass into law as it now stands and that they may be heard by themselves, their Counsel or Agents against the Preamble and such of the clauses and provisions of the Bill as affect the trade and interests which your Petitioners represent and the property rights and interests of their members and in support of amendments and provisions for their protection and that they may have such other relief in the premises as to your Right Honourable House may deem meet.

AND your Petitioners will ever pray &c.



**WINCKWORTH SHERWOOD**

Agents for the National  
Market Traders' Federation

HOUSE OF LORDS  
SESSION 2007-08

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**of the**  
**THE NATIONAL MARKET TRADERS'**  
**FEDERATION**

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Praying to be heard  
by Counsel, &c – Against

Deposited 6 February 2008

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Agents for the National Market Traders'  
Federation